

Sisk, Richard

From: Richard Sisk <Sisk.Richard@epamail.epa.gov>
Sent: Monday, September 22, 2014 11:58 AM
To: Sisk, Richard
Attachments: Property Stats - Access Status 10OCT12.xlsx; Potential Course of Action @ OU-01.xlsx

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From: Paula Schmittiel/R8/USEPA/US
To: sisk.richard@epa.gov
Date: 10/18/2012 03:12 PM
Subject:

(See attached file: Potential Course of Action @ OU-01.xlsx)
Status 10OCT12.xlsx)

(See attached file: Property Stats - Access

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POTENTIAL COURSES of ACTION
VB/I-70 SUPERFUND SITE - OU-01

PROPERTY STATUS	POSSIBLE COURSE of ACTION	DESCRIPTION	POTENTIAL CONSEQUENCES (All of these proposed options w/the exception of issuing an order may require EPA to issue an ESD to document these change).
Rental Property - no sampling	Issue Order for Access to sample	EPA would 1st send a certified letter to PO informing them of EPA's intent to issue an order for access & provide them an opportunity to sign an access agreement instead. If the PO still refused, EPA would then use its enforcement authority and issue an administrative order to gain access for sampling	<ul style="list-style-type: none"> • Potential for action being opposed by public is minimal. • Would protect tenants since they have little recourse w/PO if they learn property is contaminated after signing lease.
Rental Property - no sampling	Send annual letter to both PO and to tenant*	Letter would notify of the risk, lack of sampling & provide information about where to learn more to protect children from exposure.	<ul style="list-style-type: none"> • Letter may not notify tenant prior to signing lease. • Does not require PO to communicate anything to either tenant or potential buyer prior to signing lease or purchase.
Rental Property - w/known contamination	Send annual letter to both PO and to tenant*	Letter would notify of the risk, lack of sampling & provide information about where to learn more to protect children from exposure.	<ul style="list-style-type: none"> • Letter may not notify tenant prior to signing lease. • The letter of itself would not require PO to communicate anything to tenant. • Colorado law does requires PO to communicate to potential buyer prior to purchase the presence of contamination, however, if the seller does not reveal this information and the new owner learns of the contamination thru a letter it then puts the burden on the new owner to take recourse of action. • Q - is there a SOL for new owner to take recourse?
Rental Property - w/known contamination	Letter to PO to sign AA or a Notice would be filed	Letter would give POs a choice to sign AA to allow cleanup or a Notice of Environmental Conditions would be filed on property. Letter would remind PO of the requirement under Colorado Law to notify potential buy of known contamination. THE TIMING ON THIS WOULD BE CRITICAL to ALLOW EPA ADEQUATE TIME TO SAMPLING & CLEANUP BEFORE DEMOLIZATION NEXT SUMMER.	<ul style="list-style-type: none"> • This option would give POs a choice & would allow them to "due process". • The timing to contest the Notice may not give the PO the opportunity to reconsider signing the AA if they fail in their appeal on the Notice. • This option exerts the maximum leverage on the PO to give access without EPA issuing an order.
Rental Property - w/known contamination	File Notice of Environmental Conditions	A certified letter would be sent to the PO informing them of EPA's intent to file a notice. Notice filed w/CCOD property records alerting new POs of the presence of contamination. PO can sue after the filing.	<ul style="list-style-type: none"> • The fact of known contamination could have long term consequences on the value of property. • Existence of Notice may not come to a potential buyer's attention until closing. • Could arrange to have CCOD notify State when a construction permit is pulled.

POTENTIAL COURSES of ACTION
VB/I-70 SUPERFUND SITE - OU-01

PROPERTY STATUS	POSSIBLE COURSE of ACTION	DESCRIPTION	POTENTIAL CONSEQUENCES (All of these proposed options w/the exception of issuing an order may require EPA to issue an ESD to document these change).
Owner-Occupied Property - no sampling	Annual letter to PO*	The letter would notify the PO that the property has not been sampled to determine if there is a potential risk if contamination but that the property is within the boundaries of a Superfund Site. Letter would also provide information as to where additional information to protect oneself against potential risk.	•The biggest drawback to an annual letter for this category of properties is that the property could easily change to a rental and it may take several years for EPA and the State to determine that there is a tenant who has not been informed of the situation.
Owner- Occupied Properties - known contamination	Letter to PO to sign AA or a Notice would be filed	Letter would give POs a choice to sign AA to allow cleanup or a Notice of Environmental Conditions would be filed on property. Letter would remind PO of the requirement under Colorado Law to notify potential buy of known contamination. THE TIMING on THIS WOULD BE CRITICAL to ALLOW EPA ADEQUATE TIME TO CLEANUP BEFORE DEMOLIZATION NEXT SUMMER.	•This option would give POs a choice & would allow them to "due process".

VB/I-70 - OU-01 Property Stats Access Status

9/22/2014

Ownership Category	Swansea-Elyria	Cole	Clayton	Other Neighborhoods	Total Properties for Each Category	# of Access Agreements Received	# of Rental Properties (that could be issued an order for access)	# of Owner-Occupied Properties (where an order for access could be necessary)
Total New Owners	23	14	32	4	73	46		
Owner-Occupied	12	6	13	4	35	14		21
Rental	11	8	19	0	38	32	6	
Total Same Owners*	23	26	28	4	81	22		
Owner-Occupied	12	20	17	2	51	9		42
Rental	11	6	11	2	30	13	17	
Grand Total	46	40	60	8	154	68	23	63

* Same Owners are defined as owners of property as of December 31, 2006. New Owners are owners who acquired property after this date.

9/22/2014